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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/500,921	02/09/2000	Florian Pestoni	AM9-99-0158	3221
28211	7590	06/09/2004	EXAMINER	
FREDERICK W. GIBB, III MCGINN & GIBB, PLLC 2568-A RIVA ROAD SUITE 304 ANNAPOLIS, MD 21401			WILLETT, STEPHAN F	
			ART UNIT	PAPER NUMBER
			2141	12
DATE MAILED: 06/09/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/500,921	PESTONI, FLORIAN
	Examiner	Art Unit
	Stephan F Willett	2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 March 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-35 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-2, 5, 8, 10-11, 16, 20, 23-24, 27, 30, 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The “protocol instance” is unclear.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-2, 5, 8, 10-11, 16, 20, 23-24, 27, 30, 33 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, “protocol instance” is not enabled. In this regard, the use of “multiplexor” in this application is not common, however, the analogy is explained in the specification. To further prosecution, realize submitting the “same” duplicate requests in a variety of situations, such as redundancy, error checking, testing, etc. is a legacy process.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U. S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 5-12, 14-18, 20-25, 27-31, 33-35 are rejected under 35 U.S.C. 102(e) as being anticipated by Scholl et al. with Patent Number 6,145,001.

3. Regarding claim(s) 1, 8, 16, 23, 30, Scholl teaches transferring a request to a multiplexor, col. 6-7, lines 66-1. Scholl teaches generating a plurality of instances (requests) for each server program, col. 7, lines 2-5, 25-27, 63 via a “network access protocol”, col. 7, lines 31-33. Instance, similar to object, is a broad term that refers to subclasses of object oriented code running or instance data used in the instance. Scholl teaches “the appropriate data is the collected [combined] in response to the managed network and objects”, col. 7, lines 25-27 based on “the Web client request” being translated “into at least one network management request”, col. 7, lines 61-63. The translated request is a subclass or instance performed by the parser/formatter or a type of a multiplexor and vice versa as claimed. It is well known in the art that a single request usually results in numerous sub requests (instances) from the initial request. Scholl teaches transferring said request instances to the server, col. 7, lines 5-24. Scholl teaches transferring a plurality of responses to said multiplexor, col. 7, lines 26-33. Scholl teaches converting said responses into one response for the client, col. 7, lines 33-40.

4. Regarding claims 2, 11, 17, 24, Scholl teaches specifying a target list of instance requests, col. 7, lines 61-66.
5. Regarding claims 3, 12, 18, 25, 31, Scholl teaches selecting an operation to combine results, col. 6, lines 47-54, col. 7, lines 25-30.
6. Regarding claims 5-6, 10, 14, 20-21, 27-28, 33-34, Scholl teaches automatic instantiation and unaffected method as real time, col. 7, lines 54-55.
7. Regarding claims 7, 15, 22, 29, 35, Scholl teaches an instance of the client program as returning data to the client, col. 6, lines 50-51.
8. Regarding claims 9, Scholl teaches altering requests, col. 6, lines 25-28.

Claim Rejections - 35 USC 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
10. Claims 4, 13, 19, 26, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scholl et al. with Patent Number 6,145,001 in view of Rogers et al. with Patent Number 6,094,655.
11. Regarding claim(s) 4, 13, 19, 26, 32, Scholl teaches transferring a request to a multiplexor, col. 6-7, lines 66-1. Scholl teaches generating a plurality of instances (requests) for each server program, col. 7, lines 2-5. Scholl teaches transferring said request instances to the server, col. 7, lines 5-24. Scholl teaches transferring a plurality of responses to said multiplexor,

col. 7, lines 26-33. Scholl teaches converting said responses into one response for the client, col. 7, lines 33-40. Scholl teaches specifying a target list of instance requests, col. 7, lines 61-66. Scholl teaches selecting an operation to combine results, col. 6, lines 4-54. Scholl teaches the invention in the above claim(s) except for explicitly teaching specific operations to be performed on response data. In that art, Rogers, a related data reporting system teaches "the DIS capsule has created the file containing the report results " col. 9, lines 18-19 in order to identify relevant user data. Rogers specifically teaches listing, adding, subsets, maximums, minimums and averages, col. 18, lines 60-67, col. 23, lines 44-49. Further, Rogers suggests "a capsule object, as a DIS capsule, can call other routines", col. 18, lines 445-46, 48-53 which will result from implementing the requests for data. The motivation to incorporate diverse operations insures that a diverse array of presentation mediums are available. Thus, it would have been obvious to one of ordinary skill in the art to incorporate various data computations as taught in Rogers into the data retrieval system described in the Scholl patent because Scholl operates with diverse data sources and Rogers suggests that retrieved data can be reformatted into many forms. Therefore, by the above rational, the above claim(s) are rejected.

Response to Amendment

12. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.
13. The limited structure claimed, without more functional language, reads on the references provided. First, An applicant can be their own lexicographer, however such definitions must be reasonable and provided in the specification. The use of a multiplexor to generate multiple

requests and then also using said same multiplexor to combine multiple responses is a very unusual “analogy” as described in the specification and is not that reasonable. Also, the specification describes “multiplexing signals from one source to different sources” which sounds more like multicasting. These idiosyncrasies are highlighted to exacerbate the breadth and interpretation that can be made with certain words in this rejection which applicant’s specification exemplifies. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

14. Applicant suggests “Scholl discloses a system that parses the client request into multiple requests”, Paper No. 9, Page 10, lines 3-4, but to different networks. The same rejection was maintained to emphasize the present breadth of the claims and since multiple requests is taught, but all the other limitations argued by the applicant are not claimed, and simply due to the fact the reference has numerous other limitations and teachings does not obfuscate the teachings of the present claims. For example, the Applicant also suggests “Scholl only directs a portion of any client request to a single server”, Paper No. 9, Page 9, lines 3. Repeatedly the Applicant states “same request”, but the above argument is not commensurate with what is presently claimed and therefore will not be considered at this time. The applicant claims a legacy process of redundant, duplicate, or the same requests being sent to similar or independent processors, computers, servers or networks, but with unique terminology thus the words have an even broader interpretation. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

Conclusion

15. Prior art made of record and not relied upon is considered pertinent to applicant's disclosure is disclosed in the Notice of References Cited, and note US Patent 5,802,368. The other references newly cited teach numerous other ways to instantiate a single request into multiple requests and provide a single response with regard to instances specifically, thus a close review of them is suggested.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

18. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.


Stephan Willett

Patent Examiner

June 4, 2004